

Evelyn Konrad  
18 So. Rosko Drive  
Southampton, New York 11968  
631-283-4407  
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16 August 2013

Hon. Magistrate Judge A. Kathleen Tomlinson  
United States District Court  
Eastern District of New York  
100 Federal Plaza  
P.O. Box 9014  
Central Islip, New York 11722

RE: *Konrad v Epley et al.*  
Docket No. 12-cv-4021 (JFB)(AKT)

LETTER REQUEST FOR MOTION

Dear Judge Tomlinson:

In line with Magistrate Judge Boyle's order, I am asking for permission to add Michael and Kathleen Kosciusko, owners of Lot 47, Sec. 3, Rosko Place subdivision, added as defendants for violating plaintiff's Due Process and Equal Protection rights. (The government defendant who is at fault for these violations of plaintiff's Constitutional rights, Elbert W. Robinson Jr., is already a defendant in the above-referenced case, and would only have this claim added to the plaintiff's other claims against him.)

The documentation for these violations of plaintiff's Constitutional rights are the following:

The first two exhibits simply document plaintiff's standing and rights to sue to enforce the covenants that run with the land.

EXHIBIT ONE: (from Exhibit 1 to plaintiff's original complaint)

Pages from Title Search showing transfer of plaintiff's property at 18 So. Rosko Drive from previous owner Cy Brill in 1984

Schedule A from Title Search showing identification of 18 So. Rosko Drive from official Suffolk County map of 1960

EXHIBIT TWO: (from Exhibit 2 to plaintiff's original complaint)

True copy of Section I of Rosko Place subdivision, on which plaintiff's property is shown.

This exhibit shows what covenants (ergo property rights), the proposed defendants are violating:

EXHIBIT THREE (from Exhibit 3 to plaintiff's original complaint)

Declaration by Leo Rosko and John Borucke signed on 26 November 1962 by Leo Rosko amending 1956 Declaration in liber 4668, page 182, stating that these covenants will run with the land. Covenant 1: forbids any structure besides main house other than garage, and specifies no structure closer than 25 ft. from property line, both of which terms are violated by the suggested defendants, Michael and Kathleen Kosciusko, and Village Assistant Attorney and already a defendant, lawyer for the Building Department and the ARB, Elbert W. Robinson Jr. -1-

This exhibit shows that the violation of plaintiff's rights at the new Old Field Road property is a violation of the ARB duties, as spelled out in the "Duties of the [ARB] Board" from the Village Code Book

EXHIBIT FOUR (from Exhibit 2 from Memorandum of Law accompanying plaintiff's answer to defendants Epley et al. Motion to Dismiss, which is part of Docket No. 104, the Motion to Dismiss, filed by defendants' attorney)

EXHIBIT FOUR: The duties of the ARB, as contained in the Village Code Book.

EXHIBIT FIVE: (From plaintiff's answer to defendant William Brown's motion to dismiss, filed by defendant as part of Docket No. 112):

**New York State Village Laws, §§ 7-722 through 7-730**, referring to lawful ways to form an approved and certified subdivision like the Rosko Place subdivision, and the steps required to have the original plat (by Leo Rosko, filed with the Suffolk County Clerk in 1956) accepted by the Village Planning Board, as they were, in three separate geographic sections, but the three together comprising the whole. Plaintiff's property is in section 1, approved and filed in 1960. Potential defendants' Kosciusko property is in section 3, and filed in 1972.

Plaintiff will, of course, include all of these documents in the motion to be filed, but they are already available to this Court, with their docket numbers as provided above.

The proof of the potential defendants' violations of plaintiff's rights to Due Process and Equal Protection are contained in the pdf that is attached with this letter request. Those documents consist of the following:

- A. The site plan, which identifies the owners, and identifies the property as being lot 47, sec 3 "Rosko Place" [For the Court's convenience, plaintiff is attaching right behind this site plan, the three maps that comprise the Rosko Place subdivision. Section 3 is map 3, filed in 1972, and shows the location of lot 47 as the last lot that is part of the Rosko Place subdivision.  
This side plan also shows that the house is located at an impermissible 20.4' from the southern property line. Furthermore, it shows the location of the pool at a forbidden 24 ft. from the southern property line.  
The top right of this site plan states "Refer to Documents Recorded in Suffolk County Clerk's Office," which is of course also true of plaintiff's documents, except for those that originated by FOIL request from the Village of Southampton itself, and those that were given to plaintiff late in 2009 by former Mayor and current Trustee Bill Hattrick.
- B. The second document is an authorization by Kathleen and Michael Kosciusko to the ARB to have James McChesney represent them.
- C. The third document is the official list of persons to be informed, by letter, of the public hearing before the ARB about the application for this house, with its multiple violations. That list omits plaintiff, thus is a clear violation of Plaintiff's Equal Protection Rights. That same list also includes many persons on Hill Street, and therefore not

part of the Rosko Place subdivision, which is a violation of plaintiff's Due Process rights.

Clearly, in the upcoming motion, for which plaintiff is requesting this Court's permission, all the documents referred to above will be shown, and additional ones as well. Furthermore, plaintiff will present additional violations of her Constitutional rights in this specific case.

DATE: Southampton, New York  
16 August 2013

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Evelyn Konrad', written in a cursive style.

Evelyn Konrad, *pro se* plaintiff  
18 So. Rosko Drive  
Southampton, NY 11968

ecf

FIRST CLASS MAIL:

Magistrate Judge Tomlinson's courtesy copy

Copy to pro se defendant  
William Brown  
27 Old Stamford Road  
New Canaan, CT 06840

**EXHIBIT A**

**Site Plan for the Kosciusko House being  
Built at 34 Old Field Lane**

**Followed by the three maps of the  
three geographic sections of the Rosko  
Place subdivision, approved, respectively,  
in 1960, 1966, and 1972. Together,  
these maps show the entirety of the  
Rosko Place subdivision, as filed, in  
his descriptive plat with the Suffolk  
County Clerk in August 1956.**

Refer to Documents Recorded in  
Suffolk County Clerk's Office  
(Filed map 5756 - July 11, 1972)

**SURVEY OF PROPERTY SITUATE**

**SURVEY OF PROPERTY**  
**SITUATE**  
Lot 47 in Sec 3  
"Rosko Place"  
Village of Southam  
**TOWN OF SOUTHAMPTON**  
**SUFFOLK COUNTY, NEW YORK**

CERTIFIED TO:  
MICHAEL ; KATHLEEN KOSCIUSKO

JACOB M. BUCHHEIT  
LICENSE NO. 47400

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WILLIAM G. LOWE  
LICENSE NO. 49476

UNAUTHORIZED ALTERATION OR ADDITION TO THIS SURVEY IS A VIOLATION OF SECTION 7209 OF THE NEW YORK STATE EDUCATION LAW

COPIES OF THIS SURVEY MAY NOT BEARING THIS SURVEY'S INFO SEAL OR A NEW BORNED SEAL SHALL NOT BE CONSIDERED TO BE A VALID TRUE COPY

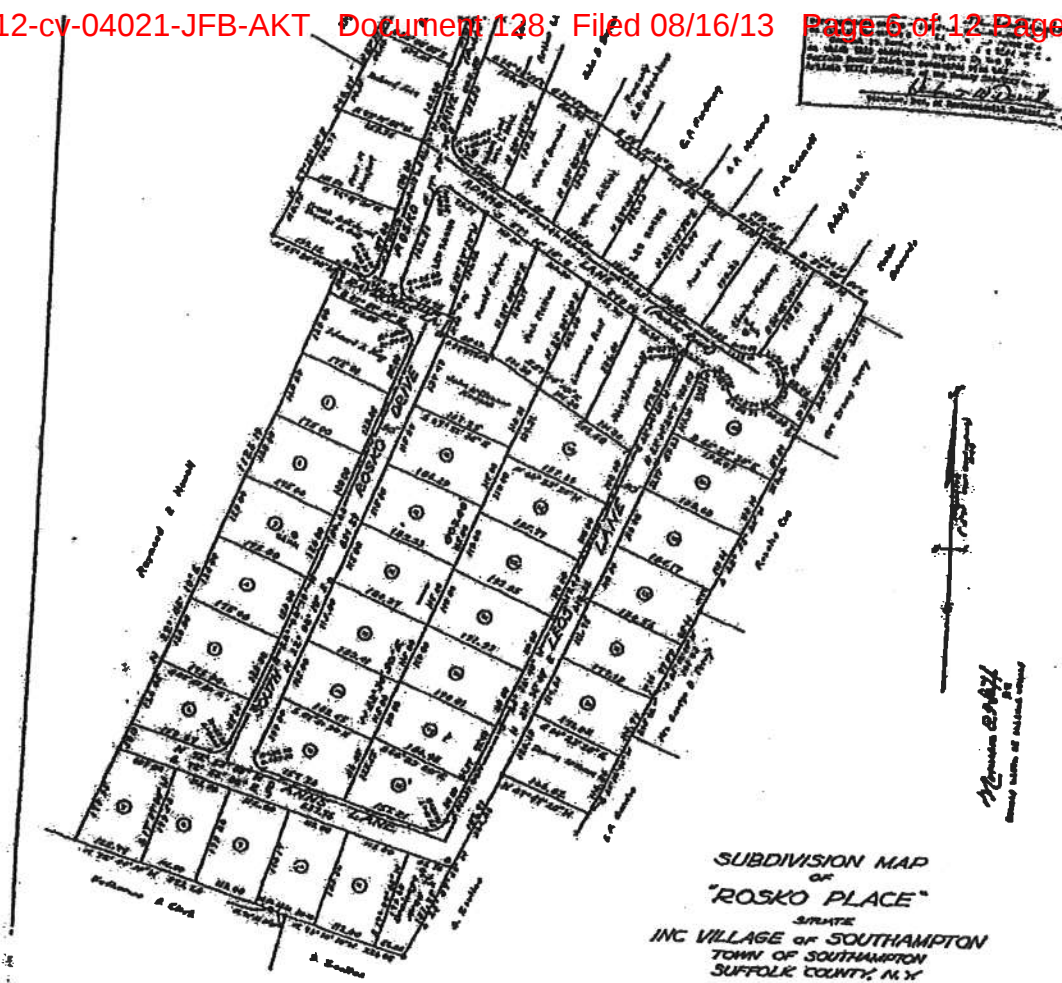
GUARANTEES INDICATED HEREON SHALL RUN ONLY FOR THE PERIOD FOR WHICH THE SURVEY IS PREPARED AND ON THE SEAL TO THE TITLE PLAT. ANY SUCH GUARANTEE SHALL BE VOID AND THE LENDING INSTITUTION LISTED HEREON, AND TO THE ABSENCE OF THE LENDING INSTITUTION LISTED HEREON, THE LENDING INSTITUTION TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS

ROOM EASEMENTS AND UNRECORDED UTILITIES WHETHER ABANDONED OR IN USE, UNLESS OTHERWISE NOTED ARE NOT SHOWN ON THIS SURVEY

PROPOSALS 11-27-12

DOLLIVER LAND SURVEYING, PLLC  
LAND SURVEYORS AND PLANNERS  
HAMPTON BAYS, NEW YORK



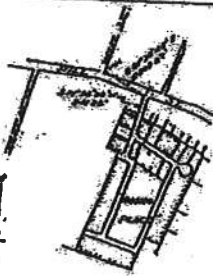
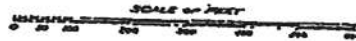


**SUBDIVISION MAP  
OF  
"ROSKO PLACE"**  
SITING  
INC VILLAGE OF SOUTHAMPTON  
TOWN OF SOUTHAMPTON  
SUFFOLK COUNTY, N.Y.

OWNER AND DEVELOPER  
**LEO ROSKO**  
380 HILL ST  
SOUTHAMPTON, N.Y.

FILED

JUL 28 1960  
Suffolk Co. N.Y.  
CLERK



KEY MAP  
SCALE 1" = 600'

This is to certify that this subdivision map has been approved by the Planning Board of the Village of Southampton.  
JUL 27 1960 *Arthur J. Ketchum, Secretary*  
The extent of this map does not constitute the map of the Village of Southampton as a public road.

I hereby certify that this map was made by me from actual survey conducted by me or under my supervision and that the same is correct and true and that the same is a true and correct copy of the original.

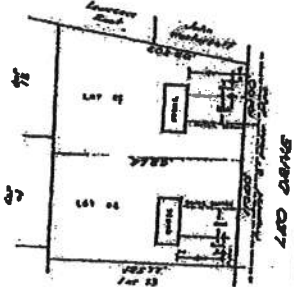
*Frederick F. Jones*  
FREDERICK F. JONES  
LICENSED LAND SURVEYOR NO. 1000  
SOUTHAMPTON, N.Y.

NOTES:  
" indicates true monument.  
o indicates proposed dry well.  
This property is in O-3 and in O-4 Residential Districts.

**FILED JUL 28 1960**

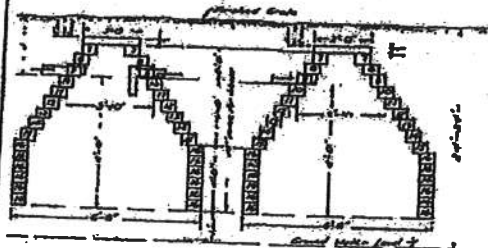
**FILE No. 3211**

**ABS. No. 3526**



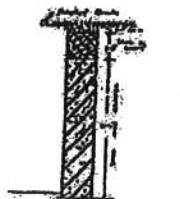
TYPICAL LOT LAYOUT  
FOR TWO CESSPOOLS  
SCALE 1" = 60'

Notes:  
Distances shown are minimum distances for separation of various structures from center of cesspool.  
Minimum distance between centers of cesspools = 16 ft.  
Cross-hatched area = cesspool area.



TYPICAL CESSPOOL SYSTEM  
FOR TWO CESSPOOLS

Notes: [Symbol] = number of 16" cesspool blocks per cesspool



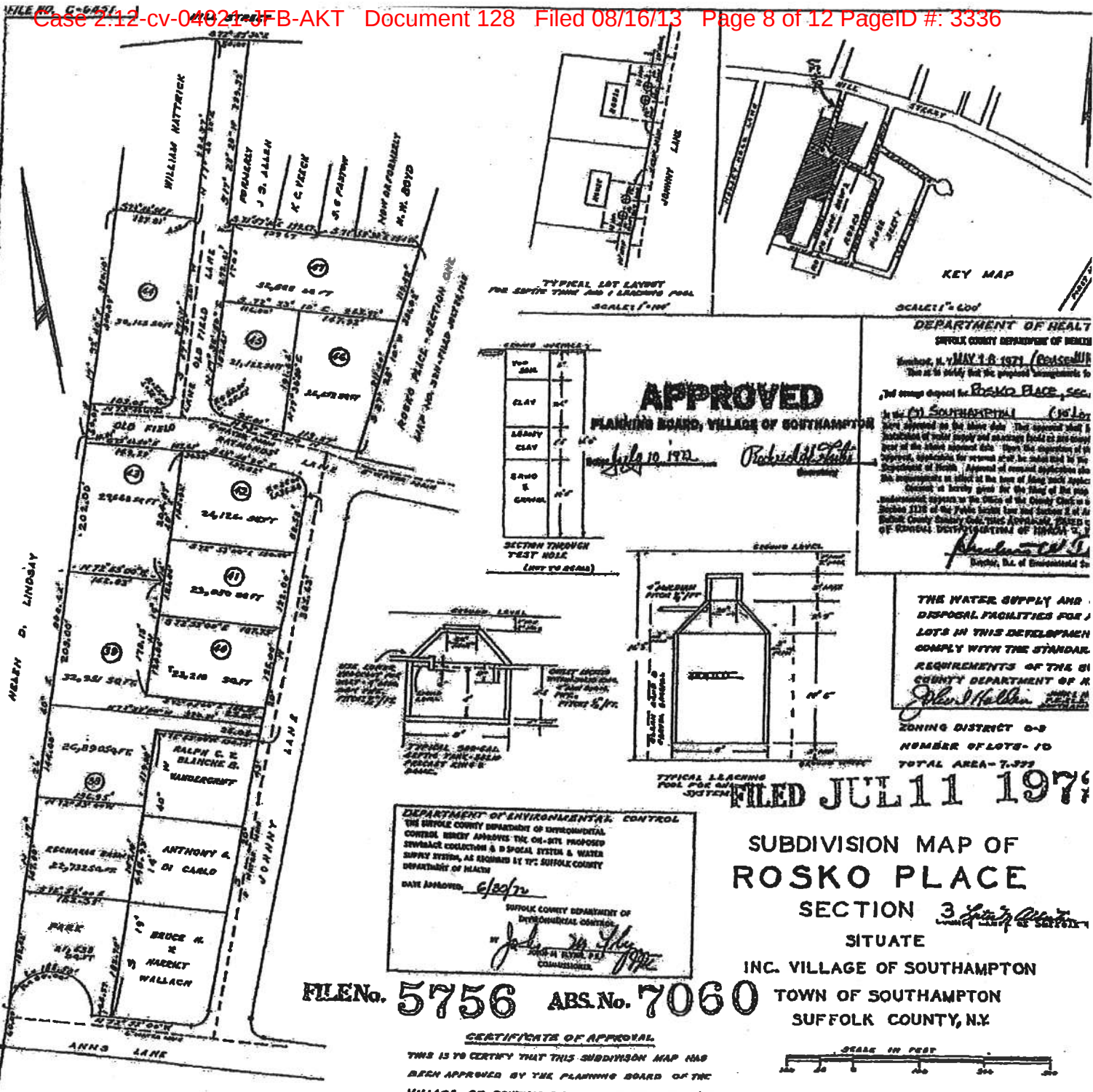
SECTION THROUGH TYPICAL CESSPOOL

2038-10









I HEREBY CERTIFY THAT THIS MAP WAS MADE BY ME FROM ACTUAL SURVEYS COMPLETED MAP DATED APRIL 27, 1972 & REVISED JUNE 13, 1974 THAT ALL CONCRETE MONUMENTS SHOWN DO EXIST AND THAT THEIR POSITIONS ARE CORRECTLY SHOWN.

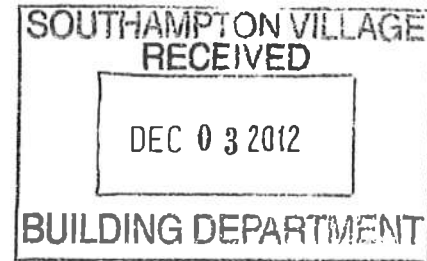
*Theodore F. Squiers*  
THEODORE F. SQUIERS  
LAND SURVEYOR 15693  
SOUTHAMPTON, N.Y.



**EXHIBIT B**

Authorization signed by owners and future defendants Kathleen and Michael Kosciusko, to the ARB to give their architect, James McChesney, permission to act as their agent at all ARB meetings, including the public hearing, of which plaintiff was not informed.

Board of Historic Preservation & Architectural Review  
23 Main Street  
Southampton, New York 11968



To all Southampton ARB Members:

My husband and I are planning to build a home on a new piece of property at 34 Old Field Lane in Southampton. James McChesney completed the architectural plans for the house we hope to build.

We are giving Mr. McChesney permission to act as our agent at all ARB meetings with regards to this property. Please address any questions to Mr. McChesney throughout the process. If you have any concerns or questions with this request, please contact us directly at 516-627-3505 or 917-864-2802.

Thank you greatly for your consideration,



Kathleen and Michael Kosciusko



### **EXHIBIT C**

Building Department list of persons to be notified by personal letter of upcoming public hearing at ARB for 34 Old Field Lane house, which list violates plaintiff's Due Process rights by improperly including several persons whose properties are not part of the Rosko Place subdivision such as Nicholas & Kerry Palumbo and Theresa Kumbatovich from Hill Street, but fails to include plaintiff, thus violating plaintiff's Equal Protection rights.



KOSCIUSKO, MICHAEL & KATHLEEN  
39 INNESS PLACE  
MANHASSET, NY 11030  
14-1-32

WELCH, CAROL & TIMOTHY  
199 HAWK'S HILL ROAD  
NEW CANAAN, CT 06840  
14-1-36

CLEARY, SUSAN & SHAW, AMY  
28 W PARKWOOD ST  
ALBANY, NY 12203  
14-1-38

JANE G BURNS ASSET MGT TRUST  
360 HILL ST  
SOUTHAMPTON, NY 11968  
14-1-39

RANDALL R KNOPP REV LVG TRST &  
HEIDI KNOPP REV LVG TRST  
50 STEWART ROAD  
SHORT HILLS, NJ 07078  
14-1-13.9

TITUS, CHRISTINA M  
431 EAST 84TH STREET  
NEW YORK, NY 10028  
14-1-40

WEINFURT, FREDERICK J  
PO BOX 518  
SOUTHAMPTON, NY 11968  
14-1-39

MARTIN, JENNIFER  
404 HILL STREET  
SOUTHAMPTON, NY 11968  
14-1-13.8

GUIDA, CHARLES & DIANE  
39 RAYMONDS LANE  
SOUTHAMPTON, NY 11968  
14-1-30

MAGNOR JR, MICHAEL & FRANCES  
35 RAYMONDS LANE  
SOUTHAMPTON, NY 11968  
14-1-31

CURTIN, JOHN P  
132 E 72ND ST 10TH FL  
NEW YORK, NY 10021  
14-1-34

GEORGIA PEACH LLC  
252 7TH AVE #9-O  
NEW YORK, NY 10001  
14-1-8

PALUMBO, NICHOLAS & KERRY  
380 HILL ST  
SOUTHAMPTON, NY 11968  
14-1-7

LOGAN, STEVEN & KIMBERLY  
15 GRAY ROCK LANE  
CHAPPAQUA, NY 10514  
14-1-35

KUMBATOVICH, THERESA  
330 HILL ST  
SOUTHAMPTON, NY 11968  
14-1-37



*34 Old Field Road*